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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 RIMINI STREET, INC.,

Case No. 2:14-cv-01699-LRH-PAL

8 Plaintiff,

ORDER

9 v.

10 ORACLE INTERNATIONAL  
11 CORPORATION,

12 Defendant.

13 Canon 3C(1) of the Code of Conduct for United States Judges requires disqualification of  
14 a judge “in a proceeding in which the judge’s impartiality might reasonably be questioned.” The  
15 undersigned has applied for reappointment. I just learned today that the Chief Judge entered an  
16 order May 2, 2016 appointing a panel consisting of lawyers and other members of the  
17 community to consider my reappointment. The Judicial Committee on Code of Conduct  
18 Advisory Opinion, No. 97 directs that “during the period of time that the panel is evaluating the  
19 incumbent and considering what recommendation to make concerning reappointment, a  
20 perception would be created in reasonable minds that the magistrate’s judge’s ability to carry out  
21 judicial responsibilities with impartiality is impaired in any case involving an attorney or a party  
22 who is a member of the panel.” The advisory opinion therefore advises a magistrate judge to  
23 recuse under Canon 3C(1), subject to remittal under Canon 3D.

24 Canon 3D is entitled Remittal of Disqualification. It establishes an alternative to  
25 withdrawing from a proceeding for a judge disqualified by Canon 3C(1). It provides that a judge  
26 disqualified under Canon 3C(1) “may except in the circumstances specifically set out in  
27 subsections (a) through (e)”, participate in a case if the basis for the disqualification is disclosed  
28 under certain circumstances. First, the parties and their lawyers must receive full disclosure of

1 the basis for disqualification. Second, the parties and their lawyers must have an opportunity to  
 2 confer outside the presence of the judge. Third, all parties and their lawyers must agree in  
 3 writing or on the record that the judge should not be disqualified. Fourth, the judge must be  
 4 willing to participate. Subsections (a) through (e) do not apply. Canon 3D also provides that any  
 5 agreement to allow the judge to continue to participate in the proceeding “should be incorporated  
 6 in the record of the proceeding.”

7 The next hearing in this matter is set for Tuesday, May 10, 2016. The court is  
 8 considering remittal of disqualification under Canon 3D. Accordingly, the court is disclosing  
 9 that the following individuals are members of the panel considering my reappointment,


10	W. West Allen, Esq; Chairperson	Attorney at Law
	Honorable Nancy L. Allf	Eighth Judicial District Judge
11	Doreen Spears Hartwell, Esq.	Attorney at Law
	Margaret M. Stanish, Esq.	Attorney at Law
12	Daniel W. Hamilton, Esq.	Dean, William S. Boyd, School of Law
	Chuck Short	Consultant
13	Kimberly Farmer	Executive Director, State Bar of Nevada

14 W. West Allen is counsel for Rimini in this case. Pursuant to the provisions of Canon  
 15 3D, the court is disclosing the basis for disqualification and allowing the parties and their  
 16 attorneys to confer to determine whether they will agree in writing or on the record on remittal of  
 17 disqualification.

18 **IT IS ORDERED:**

- 19 **1.** The parties shall have until **May 9, 2016**, to confer with their clients to determine  
 20 whether or not all concerned will agree in writing on the matter of remittal of  
 21 disqualification based on Mr. Allen’s membership on the panel to consider my  
 22 reappointment.
- 23 **2.** The parties shall have until **10:00 a.m., May 9, 2016**, to file a brief notice of  
 24 compliance and statement of whether or not all parties agree to remittal.
- 25 **3.** In the event all counsel and the parties agree to remittal, a simple statement to that  
 26 effect shall be filed for the record.

5. In the event any counsel or party needs more time to consider remittal of disqualification before the May 10, 2016 hearing a simple statement to that effect should be filed **no later than 10:00 am May 9, 2016, with a statement of how much time is required so that the hearing may be vacated to avoid unnecessary expenditure of resources.**

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE